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September 18, 1997

Honorable Members
State Board of Psychological Examiners
P.O. Box 45017
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FILED WITH THE BOARD OF
PSYCHOLOGICAL EXAMINERS
ON September 22, 1997

re: Matter of Nieves and Blasucci
OAL Docket No. BDS 2394-96
REPLY TO DEFENSE EXCEPTIONS

Honorable Members of the Board:

Respondents, in their Exceptions, have asked this Board to disbelieve testimony by 4 witnesses: T-A clinicians Dr. Wendy Aita, Angela Heller, and CPI office staff Jacqueline Decker and Victoria Mason, implying that they were untruthful in reporting numerous forms of unethical conduct because of an alleged conspiracy to "bring down" respondents and to "take over" their Therapeutic Alternatives program. That contention was repeatedly made at trial, and respondents have now purported to cite trial transcript references to argue that Complainant's witnesses admitted such a scheme (RRBp.2). But a reading of the references and the immediately related testimony by Complainant's witnesses rejecting those allegations shows that this is wholly erroneous.

In fact, Complainant repeatedly objected at trial to the use in cross-examination of the term "takeover", because it was initiated and repeatedly urged and used by the defense. See, by way of example, Complainant's objection at 9T86,87, and Ms Heller's explicit rejection of the term at 9T88. It was merely a red herring seeking to deflect attention from the import of the testimony coming from so many witnesses as to ethical and professional improprieties. The defense also references testimony of Ms Decker

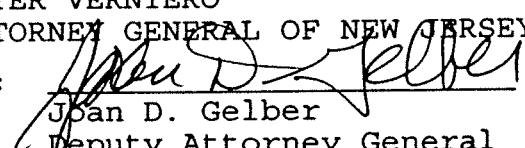
(RRB3) but misdescribes the actual testimony, as it was once again the defense asserting such a scheme."

It is noteworthy that ALJ Masin heard repeated accusations by the defense regarding the alleged scheme. The desperate nature of such testimony, including that of the currently-employed T-A secretary Linda Phillips who asserted that these employees spoke of the scheme "daily" even while they were still employed by Drs. Nieves and Blasucci, should be recognized as wildly implausible. The Judge found it sufficient to mention that defense assertion solely at ID 3 and to note that there was a "credibility battle." It would appear that this experienced Judge then devoted his attention to the credibility of the witnesses, their professional experience at the tasks assigned to them, the merits of the documentary evidence, and basic ethical precepts, all as applicable to the allegations. As already seen, the Judge found numerous instances of improper conduct attested to not only by these four former employees - all of whom had resigned, but also by many other witnesses, who had also found it necessary for professional and ethical reasons to terminate their employment by respondents.

The defense accusation of conspiracy should be rejected.

Respectfully submitted,

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c: Hon. Jeff S. Masin, A.L.J.
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"The testimony shows that Ms Decker had reported her recollection of a conversation with Ms Heller held subsequent to Decker's resignation, wherein Heller had informed Decker of an inquiry from someone else (later identified as Jack Abbott of DYFS) asking if certain persons would be interested in running a T-A [type] program or some other contract in the future. See 5T148,151. Ms Heller herself confirmed her post-resignation conversation with Mr. Abbott, who had inquired "if Wendy [Aita] would be interested" in the program (9T84,86).